

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN C. THORNTON,

Petitioner

V.

Criminal No. 21-271

UNITED STATES OF AMERICA,

Respondent.

ORDER

Petitioner John C. Thornton has filed a pro se Motion for Copies/Production of Transcripts. ECF No. 65. Mr. Thornton's pro se/in forma pauperis status, by itself, does not entitle him to free copies of transcripts. Mr. Thornton therefore relies on the provisions of 28 U.S.C. § 753 (concerning the release and payment of transcripts by court reporters) and case law to argue that transcripts must be provided at no cost to defendants in certain cases.

Some of the provisions of section 753 do allow for, or require, that, in certain circumstances, a free transcript is to be provided to an in forma pauperis litigant. However, none of said provisions apply to Mr. Thornton at this time. First, Mr. Thornton cites the following provision from Section 753:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes.

28 U.S.C. § 753(f). Mr. Thornton's criminal proceeding is completed. He was sentenced on June 22, 2022. ECF No. 57. He filed an appeal on July 5, 2022. ECF No. 58. He voluntarily dismissed his appeal on August 10, 2022. ECF No. 60. In all but the rarest of cases a habeas corpus proceeding will not apply for Mr. Thornton because he was convicted in federal court, not state court.

Next, the following sentence of section 753 cited by Mr. Thornton states:

Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

28 U.S.C. § 753(f). Mr. Thornton does not presently have section 2255 petition filed with the Court. Therefore, a request for a transcript is premature. In addition, a free transcript will only be provided if the trial judge or circuit judge certifies that the issues are not frivolous and that the transcript is needed to decide the issue.

Finally, Mr. Thornton cites the following sentence from section 753:

Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

28 U.S.C. § 753(f). Again, a primary requirement to obtaining a transcript without paying for it is a certification that the appeal is not frivolous and presents a substantial question. In addition, as with several other provisions, the ability to obtain a transcript depends first on the filing of a relevant action. There are no such filings in this case.

Accordingly, because Mr. Thornton has not established that he has a legal basis to request transcripts without fees his motion will be denied.

AND NOW, this 24th day of January, 2023, it is hereby ORDERED that Petitioner's Motion for Copies/Production of Transcripts, ECF No. 65, is DENIED.

/s/ Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge

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